

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ABDERANMAN MAYO,

Plaintiff,
-against-

SERGEANT REID, et al.,

Defendants.

23-CV-9719 (LTS)

ORDER TO UPDATE
ADDRESS

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is proceeding *pro se*, filed this action on September 6, 2023, in the Eastern District of New York, when he was incarcerated at the Wende Correctional Facility (“Wende”).¹ That court transferred the action to this court on November 3, 2023.² On November 7, 2023, the undersigned issued an order granting Plaintiff’s application to proceed *in forma pauperis* (“IFP”), and the Clerk’s Office mailed the order to Plaintiff at Wende. (ECF 7.) On November 20, 2023, the Clerk’s Office received a letter from an Inmate Records Coordinator at Wende, informing the Court that Plaintiff was released from custody on September 28, 2023.

Plaintiff has not notified the court of a new address where he can receive mail nor has he consented to electronic service of court documents. Plaintiff also has not made any further written submissions to the court.

As set forth below, Plaintiff is directed to provide an updated address to the court within 30 days of the date of this order.

¹ The complaint is dated September 6, 2023. (See ECF 1, at 5.)

² The order directing that the action be transferred was issued on October 4, 2023, but the case was not transferred to this court until November 3, 2023. (See ECF 5-6.)

DISCUSSION

Under Rule 41(b) of the Federal Rules of Civil Procedure, a district court may dismiss an action *sua sponte* for failure to prosecute, as long as the court notifies the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). A court may dismiss an action under Fed. R. Civ. P. 41(b), if the plaintiff fails to notify the court of a new address and the court is unable to contact the plaintiff. *See, e.g., Abdallah v. Ragner*, No. 12-CV-8840 (JPO), 2013 WL 7118083, at *4 (S.D.N.Y. Nov. 22, 2013) (“A plaintiff is required to notify the Court when his address changes, and failure to do so is sufficient to justify dismissal of a plaintiff’s complaint. . . . If [the plaintiff] does not contact the Court and update his address within the time allowed, this action will be dismissed for failure to prosecute.”) (citing *Fields v. Beem*, No. 13-CV-0005, 2013 WL 3872834, at *2 (N.D.N.Y. July 24, 2013) (collecting cases)).

The Court hereby notifies Plaintiff that he must update the Court with his new address within 30 days of the date of this order. If Plaintiff does not comply with this order within the time allowed, the Court will dismiss this action, under Rule 41(b) of the Federal Rules of Civil Procedure, without prejudice to Plaintiff’s refiling it.

Plaintiff may complete the attached form, Consent to Electronic Service, to receive court documents electronically by email.

CONCLUSION

Within 30 days of the date of this order, Plaintiff must update the Court with his new address in writing. Failure to do so will result in dismissal of the action without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute.

A copy of the form, Consent to Electronic Service, is attached to this order.

The Clerk of Court is directed to docket this order on the court’s electronic case filing system and to provide a copy of this order to Plaintiff should he appear at the court’s Pro Se

Intake Unit, which is located at 40 Foley Square, Room 105, New York, New York 10007; the order shall not be mailed to Plaintiff because he no longer resides at his last known address.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: November 27, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature

Click Here to Save



**United States District Court
Southern District of New York**

Pro Se (Nonprisoner) Consent to Receive Documents Electronically

Parties who are not represented by an attorney and are not currently incarcerated may choose to receive documents in their cases electronically (by e-mail) instead of by regular mail. Receiving documents by regular mail is still an option, but if you would rather receive them only electronically, you must do the following:

1. Sign up for a PACER login and password by contacting PACER¹ at www.pacer.uscourts.gov or 1-800-676-6856;
2. Complete and sign this form.

If you consent to receive documents electronically, you will receive a Notice of Electronic Filing by e-mail each time a document is filed in your case. After receiving the notice, you are permitted one “free look” at the document by clicking on the hyperlinked document number in the e-mail.² Once you click the hyperlink and access the document, you may not be able to access the document for free again. After 15 days, the hyperlink will no longer provide free access. Any time that the hyperlink is accessed after the first “free look” or the 15 days, you will be asked for a PACER login and may be charged to view the document. For this reason, *you should print or save the document during the “free look” to avoid future charges.*

IMPORTANT NOTICE

Under Rule 5 of the Federal Rules of Civil Procedure, Local Civil Rule 5.2, and the Court’s Electronic Case Filing Rules & Instructions, documents may be served by electronic means. If you register for electronic service:

1. You will no longer receive documents in the mail;
2. If you do not view and download your documents during your “free look” and within 15 days of when the court sends the e-mail notice, you will be charged for looking at the documents;
3. This service does *not* allow you to electronically file your documents;
4. It will be your duty to regularly review the docket sheet of the case.³

¹ Public Access to Court Electronic Records (PACER) (www.pacer.uscourts.gov) is an electronic public access service that allows users to obtain case and docket information from federal appellate, district, and bankruptcy courts, and the PACER Case Locator over the internet.

² You must review the Court’s actual order, decree, or judgment and not rely on the description in the email notice alone. See ECF Rule 4.3

³ The docket sheet is the official record of all filings in a case. You can view the docket sheet, including images of electronically filed documents, using PACER or you can use one of the public access computers available in the Clerk’s Office at the Court.

PRO SE INTAKE WINDOW LOCATIONS:

40 FOLEY SQUARE | NEW YORK, NY 10007
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

MAILING ADDRESS:

500 PEARL STREET | NEW YORK, NY 10007
PRO SE INTAKE UNIT: 212-805-0136